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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,434	02/01/2002	Tim Stanley	19538-06556	8123
758	7590	05/08/2007		
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER BEKERMANN, MICHAEL	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/061,434	Applicant(s) STANLEY ET AL.	
	Examiner Michael Bekerman	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/18/02, 4/29/03.</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claim 2, this claim recites the limitation "a first promotion applies to a different set of locations than a second promotion". Claim 1, from which claim 2 depends, recites "each promotion applying to one or more locations". Claim 1 only requires one location while claim 2 requires a set of locations (or more than one). This is unclear and indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkinson (U.S. Patent No. 5,129,652). Wilkinson teaches a system and method**

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establishing patron promotions that includes all of the limitations recited in the above claims.

Regarding claims 1, 2, 9, 12, 15, and 21, Wilkinson teaches establishing multiple promotions applying to one or more locations (Column 1, Lines 49-52), each location having a plurality of applicable promotions (Column 1, Lines 56-59), generating entries for the patrons in each promotion (Column 3, Lines 60-67 and Column 4, Lines 1-2), and drawing winning entries (Column 3, Lines 51-52). Wilkinson teaches this method as being implemented with computers throughout his specification.

Regarding claims 3, 11, 13 20, and 22, Wilkinson teaches selecting winning entries on multiple occasions (every tenth drawing) (Column 3, Lines 51-52).

Regarding claims 4 and 5, Wilkinson teaches applying a set of rules to the qualifying patron activity (Column 4, Line 62 through Column 7, Line 32).

Regarding claims 6 and 19, Wilkinson teaches providing patrons with patron specific activity through a tote board (Column 1, Lines 61-65 and Column 8, Lines 36-39).

Regarding claims 7, 8, 10, 14, 16-18, and 23, Wilkinson teaches a customer service booth that handles activating patron entries and selecting winning entries from those activated ones (Column 3, Lines 60-67 and Column 4, Lines 1-2).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to patron promotions:

U.S. Patent No. 6,260,758 to Blumberg

U.S. Pub No. 2003/0036427 to Brandstetter

U.S. Pub No. 2004/0158865 to Kubler

U.S. Pub No. 2003/0027638 to Schneider

U.S. Pub No. 2006/0069619 to Walker


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JEFFREY D. CARLSON
PRIMARY EXAMINER